

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LEVERT K. GRIFFIN,

Petitioner,

v.

CHRISTINE MONEY,

Respondent.

CASE NO. 5:05 CV 2543

JUDGE KATHLEEN M. O'MALLEY

ORDER

On October 31, 2005, Petitioner Levert K. Griffin filed this action for habeas corpus relief under 28 U.S.C. § 2254. The original petition was not filed on a Form AO 241 ("Petition for Writ of Habeas Corpus by a Person in State Custody"), or on a form substantially similar, such that the Court was unable to discern the extent to which state remedies had been exhausted or the grounds raised in the state courts. Under Court Order, therefore, an amended petition was filed on November 16, 2005.

After reviewing the amended petition, the Court took judicial notice of the fact that this is at least the second habeas petition filed by Petitioner in this court challenging his 2002 convictions for the sale and possession of marijuana. A previous petition, filed in *Griffin v. Money*, N.D. Ohio Case No. 5:05 CV 1982, was dismissed on September 30, 2005 on the ground that it did not set forth any intelligible basis for relief.

The Court, accordingly, transferred this action to the United States Court of Appeals for the Sixth Circuit pursuant to the authority of 28 U.S.C. § 2244(b)(3) and *In re Sims*, 111 F.3d 45 (6th Cir. 1997) - both of which dictate that a second or successive habeas petition under 28 U.S.C. § 2254 cannot be filed in a district court without leave of court from the appropriate Court of

Appeals. *See* Doc. No. 6.

On April 27, 2006, the United States Court of Appeals for the Sixth Circuit issued an Order **denying** Petitioner's Motion to authorize this Court to consider his second habeas petition. The grounds cited by the Sixth Circuit included that Petitioner had not cited to any new rule of constitutional law applicable to his case, nor had he argued in his claims that he had new evidence showing his innocence - either of which would be a sufficient basis for the Sixth Circuit to authorize the filing of a second or successive habeas petition in this Court. *See* Doc. No. 7.

Despite this Court's lack of authority to hear Petitioner's second habeas action, Petitioner has filed the following Motions (approximately *nine months after* the Sixth Circuit denied him the right to do so):

1. *Motion for leave of Court for amending petition for habeas corpus under the original petition for writ of mandamus*, filed on January 11, 2007 (Doc. No. 8);
2. *Motion renewing motion for leave for proceeding in forma pauperis*, filed on January 11, 2007 (Doc. No. 9);
3. *Motion for order to compel discovery*, filed on January 16, 2007 (Doc. No. 10);
4. *Motion for exculpatory evidence*, filed on January 16, 2007 (Doc. No. 11);
5. *Motion for the stay, motion for the restraining order, motion for the offer of judgment, and motion for certification continue and the transmittal of the appeal*, filed on January 16, 2007 (Doc. No. 12);
6. *Motion for the Court before the Court herewith are the claims that exhausted state court remedies*, filed on January 16, 2007 (Doc. No. 13).
7. *Motion for jury trial on issues of damages and trial de novo on question of law pending immunity determination*, filed on January 29, 2007 (Doc. No. 14).
8. *Motion for immunity determination 11th amend under the petition for the great writ certiorari*, filed on January 29, 2007 (Doc. No. 15).
9. *Motion for judgment entry for the procedural default likewise for default judgment the affidavit for default Ninth District Court of Appeals*, filed on February 7, 2007 (Doc. No. 17).

As discussed in this Order, this Court has no authority to entertain this action.

Accordingly, the above-listed Motions are **DENIED** in total. Petitioner is further admonished that the Court will not accept any further documents submitted by Petitioner for filing in this matter.

IT IS SO ORDERED.

s/ Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

DATED: February 8, 2007